

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Condominium Property Act is amended by
5 adding Section 14.5 as follows:

6 (765 ILCS 605/14.5 new)

7 Sec. 14.5. Distressed condominium property.

8 (a) As used in this Section:

9 (1) "Distressed condominium property" means a parcel
10 containing condominium units which are operated in a manner
11 or have conditions which may constitute a danger, blight,
12 or nuisance to the surrounding community or to the general
13 public, including but not limited to 2 or more of the
14 following conditions:

15 (A) 50% or more of the condominium units are not
16 occupied by persons with a legal right to reside in the
17 units;

18 (B) the building has serious violations of any
19 applicable local building code;

20 (C) 60% or more of the condominium units are in
21 foreclosure or are units against which a judgment of
22 foreclosure was entered within the last 18 months;

23 (D) there has been a recording of more condominium

1 units on the parcel than physically exist;

2 (E) any of the essential utilities to the parcel or
3 to 40% or more of the condominium units is either
4 terminated or threatened with termination;

5 (F) there is a delinquency on the property taxes
6 for at least 60% of the condominium units; or

7 (G) the board of managers is not managing as
8 required by this Act or is otherwise not functioning,
9 as evidenced by factors that may include the failure to
10 timely elect a board of managers, or extended periods
11 of time during which the board has not met.

12 (2) "Party in interest" means any unit owner or owner
13 of record, mortgagee of record, lienholder of record,
14 judgment creditor, tax purchaser, or other party of record
15 having any legal or equitable title or other interest in
16 the distressed condominium property or in a unit of the
17 property.

18 (3) "Municipality" means a city, village, or
19 incorporated town in which the distressed condominium
20 property is located.

21 (b) A proceeding under this Section shall be commenced by a
22 municipality filing a verified petition or verified complaint
23 in the circuit court in the county in which the property is
24 located. The petition or complaint shall allege conditions
25 specified in paragraph (1) of subsection (a) of this Section
26 and shall request the relief available under this Section. All

1 parties in interest of the property shall be named as
2 defendants in the petition or complaint and summons shall be
3 issued and service had as in other civil cases. The hearing
4 upon the suit shall be expedited by the court and shall be
5 given precedence over other actions.

6 (c) If a court finds that the property is a distressed
7 condominium property:

8 (1) the court may order the appointment of a receiver
9 for the property with the powers specified in this Section;
10 or

11 (2) the court may appoint a receiver for the property
12 and if the court further finds that the property is not
13 viable as a condominium, then the court may declare:

14 (A) that the property is no longer a condominium;

15 (B) that the property shall be deemed to be owned
16 in common by the unit owners;

17 (C) that the undivided interest in the property
18 which shall appertain to each unit owner shall be the
19 percentage of undivided interest previously owned by
20 the owner in the common elements; and

21 (D) that any liens affecting any unit shall be
22 deemed to be attached to the undivided interest of the
23 unit owner in the property as provided herein.

24 A copy of the court's declaration under paragraph (2)
25 of this subsection (c) shall be recorded by the
26 municipality in the office of the recorder of deeds in the

1 county where the property is located against both the
2 individual units and owners and the general property. The
3 court's declaration shall be forwarded to the county
4 assessor's office in the county where the property is
5 located.

6 (d) If a court finds that property is subject to paragraph
7 (2) of subsection (c) of this Section, the court may authorize
8 the receiver to enter into a sales contract and transfer the
9 title of the property on behalf of the owners of the property
10 without their consent. In the event of such a sale, the net
11 proceeds of the sale, after payment of all the receiver's
12 costs, time, expenses, and fees as approved by the court, shall
13 be deposited into an escrow account. Proceeds in the escrow
14 account shall be segregated into the respective shares of each
15 unit owner as determined under subparagraph (C) of paragraph
16 (2) of subsection (c) of this Section and shall be distributed
17 from each respective share as follows: (1) to pay taxes
18 attributable to the unit owner; then (2) to pay other liens
19 attributable to the unit owner; and then (3) to pay each unit
20 owner any remaining sums from his or her respective share.

21 (e) A receiver appointed under this Section shall have
22 possession of the property and shall have full power and
23 authority to operate, manage, and conserve the property. A
24 receiver appointed pursuant to this Section must manage the
25 property as would a prudent person. A receiver may, without an
26 order of the court, delegate managerial functions to a person

1 in the business of managing real estate of the kind involved
2 who is financially responsible and prudently selected.

3 Without limiting the foregoing, a receiver during such time
4 shall have the power and authority to:

5 (1) secure, clean, board and enclose, and keep secure,
6 clean, boarded and enclosed, the property or any portion of
7 the property;

8 (2) secure tenants and execute leases for the property,
9 the duration and terms of which are reasonable and
10 customary for the type of use involved, and the leases
11 shall have the same priority as if made by the owner of the
12 property;

13 (3) collect the rents, issues, and profits, including
14 assessments which have been or may be levied;

15 (4) insure the property against loss by fire or other
16 casualty;

17 (5) employ counsel, custodians, janitors, and other
18 help;

19 (6) pay taxes which may have been or may be levied
20 against the property;

21 (7) maintain or disconnect, as appropriate, any
22 essential utility to the property;

23 (8) make repairs and improvements necessary to comply
24 with building, housing, and other similar codes;

25 (9) hold receipts as reserves as reasonably required
26 for the foregoing purposes; and

1 (10) exercise the other powers as are granted to the
2 receiver by the appointing court.

3 (f) If the court orders the appointment of a receiver, the
4 receiver may use the rents and issues of the property toward
5 maintenance, repair, and rehabilitation of the property prior
6 to and despite any assignment of rents; and the court may
7 further authorize the receiver to recover the cost of any
8 feasibility study, sale, management, maintenance, repair, and
9 rehabilitation by the issuance and sale of notes or receiver's
10 certificates bearing such interest as the court may fix, and
11 the notes or certificates, after their initial issuance and
12 transfer by the receiver, shall be freely transferable and when
13 sold or transferred by the receiver in return for a valuable
14 consideration in money, material, labor, or services shall be a
15 first lien upon the real estate and the rents and issues
16 thereof and shall be superior to all prior assignments of rents
17 and all prior existing liens and encumbrances, except taxes;
18 provided, that within 90 days of the sale or transfer for value
19 by the receiver of a note or certificate, the holder thereof
20 shall file notice of the lien in the office of the recorder in
21 the county in which the real estate is located. The notice of
22 the lien filed shall set forth (i) a description of the real
23 estate affected sufficient for the identification thereof,
24 (ii) the face amount of the receiver's note or certificate,
25 together with the interest payable thereon, and (iii) the date
26 when the receiver's note or certificate was sold or transferred

1 for value by the receiver. Upon payment to the holder of the
2 receiver's note or certificate of the face amount thereof
3 together with any interest thereon to the date of payment, and
4 upon the filing of record of a sworn statement of such payment,
5 the lien of such certificate shall be released. The lien may be
6 enforced by proceedings to foreclose as in the case of a
7 mortgage or a mechanics lien, and the action to foreclose the
8 lien may be commenced at any time after the date of default.
9 For the purposes of this subsection, the date of default shall
10 be deemed to occur 30 days from the date of issuance of the
11 receiver's certificate if at that time the certificate remains
12 unpaid in whole or in part. The receiver's lien shall be paid
13 upon the sale of the property as set forth in subsection (d) of
14 this Section.

15 (g) The court may remove a receiver upon a showing of good
16 cause, in which case a new receiver may be appointed in
17 accordance with this Section.